

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BRANDON L. GILLESPIE,

Petitioner,

No. 2:14-cv-00062-JE

v.

ORDER

JERI TAYLOR,

Respondent.

HERNÁNDEZ, District Judge:

Magistrate Judge John Jelderks issued a Findings & Recommendation [67] on December 17, 2015, recommending that Petitioner Brandon Gillespie's Petition for Writ of Habeas Corpus [1] be granted, his conviction for Attempted Assault in the First Degree as to Sean Barnett be vacated, and that Respondent Jeri Taylor be ordered to recalculate Gillespie's sentence. Respondent timely filed objections [76] to the Findings & Recommendation. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When a party objects to any portion of the Magistrate Judge's Findings & Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

I have carefully considered Plaintiff's objections and conclude there is no basis to modify the Findings & Recommendation. I have also reviewed the pertinent portions of the record *de novo* and find no errors in the Magistrate Judge's Findings & Recommendation.

CONCLUSION

The Court ADOPTS Magistrate Judge Jelderks's Findings & Recommendation [67] and therefore, Petitioner's Petition for Writ of Habeas Corpus [1] is granted. Petitioner's conviction for Attempted Assault in the First Degree as to Sean Barnett (Count Four of the Indictment) is vacated, and Respondent is ordered to recalculate Petitioner's conviction in accordance with this Order.

IT IS SO ORDERED.

DATED this 18 day of April, 2016.


MARCO A. HERNÁNDEZ
United States District Judge